

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Amendment of Part 90 of the) PR Docket No. 93-61
Commission's Rules to Adopt)
Regulations for Automatic)
Vehicle Monitoring Systems)

DOCKET FILE COPY ORIGINAL

To: The Commission

OPPOSITION OF THE
CONNECTIVITY FOR LEARNING COALITION
TO PETITIONS FOR RECONSIDERATION

1. The Connectivity for Learning Coalition^{1/} (the "Coalition"), pursuant to Section 1.429 of the Commission's rules, files this Opposition to several petitions for reconsideration ("PFRs") filed in this proceeding.

I. THE COMMISSION SHOULD NOT ALLOW LMS OPERATORS TO OFFER EFFECTIVE UNRESTRICTED VOICE MESSAGING IN THE 920-928 MHz BAND BECAUSE VOICE MESSAGING IS NOT A NECESSARY COMPONENT OF LMS SERVICE AND TO ALLOW IT WOULD SEVERELY IMPAIR EDUCATIONAL USES OF THE BAND.

2. The Coalition opposes Section I of the PFR submitted by MobileVision, L.P. ("Mobilevision") in which Mobilevision asks the Commission to amend the new rules it adopted in this proceeding to effectively allow LMS systems to offer unrestricted voice messaging that can interconnect with the public switched telephone network ("PSTN").^{2/} To grant LMS operators such authority would be

^{1/} The Connectivity for Learning Coalition is made up of the organizations listed on the signature page.

^{2/} Petition for Reconsideration of Mobilevision at pp. 2-6.

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tantamount to allowing LMS systems to operate cellular phone systems in the 902-928 MHz band.

3. As the Coalition noted in its PFR, the 902-928 MHz band is not suitable for the voice service presently contained in the new rule,^{3/} let alone the type of unrestricted voice communications contemplated by Mobilevision. The Commission has expressly designed the 902-928 MHz band as a shared band. Therefore, the Commission rules of must permit the different services in the band to coexist effectively. Voice messaging services occupy significantly more bandwidth than data services, and would make low-power, unlicensed, educational uses of the band very difficult, if not impossible.

4. As noted in the Coalition's PFR, LMS service is a vehicle location service, and LMS providers do not use voice to locate vehicles.^{4/5/} Therefore, a voice component is not necessary for vehicle location services. Should LMS subscribers decide that a voice capability is essential to their needs, other options -- like cellular -- exist. There is simply no need to congest the band with voice services, particularly voice services that can connect to the PSTN, when the operation of such services will likely make impossible other uses of the band which the Commission expressly deems to be in the public interest.

^{3/} Petition for Reconsideration of the Coalition at p. 12.

^{4/} It is significant that Air Touch Teletrac, the entity with the most experience locating vehicles in this band, does not ask the commission to reconsider this aspect of the Report and Order.

^{5/} Petition for Reconsideration of the Coalition at p. 12.

II. THE COMMISSION SHOULD NOT ALLOW WIDE BAND FORWARD LINKS IN THE 920-928 MHz BAND.

5. The Coalition opposes those portions of the PFR submitted by Uniplex Corporation ("Uniplex") which ask the Commission to amend the rules to allow expanded use of wide band forward links in the 902-928 MHz band.^{6/}

6. It is clear from the record in this proceeding that wide band forward links occupy a great deal of band width.^{7/} The Commission has received sufficient information to establish that wide band forward links occupy so much space that successful sharing of the band with such devices is virtually impossible. Therefore, wide band forward links are simply incompatible with the notion of a band shared by multiple users.

7. The Coalition supports the PFRs of the Part 15 Coalition and other members of the Part 15 industry that the restrictions on the use of wide band forward links in the new rules are inadequate to protect Part 15 devices.^{8/} These already inadequate restrictions should not be weakened to encourage the development and deployment of LMS systems dependent on a technology that will drive other users from the band.

8. Moreover, manufacturers and users of Part 15 devices must feel reasonably confident that the Commission will not allow

^{6/} Petition for Reconsideration of Uniplex at p. 5.

^{7/} See, Comments of TIA at p. 4, filed August 12, 1994; Comments of the Part 15 Coalition at p. 2, filed March 15, 1994. See also, Report and Order at ¶ 82.

^{8/} Petition for Reconsideration of the Part 15 Coalition at p. 6.

incompatible uses such as wide band forward links into the 902-928 MHz band. The Coalition has demonstrated that Part 15 technology will enable the nation's schools to connect to the NII. As the Coalition stated in its PFR, it is especially concerned that the presence of wide band forward links in the band on any level, let alone the expanded level proposed by Uniplex, will deter investment in, and research and development by, the Part 15 community, and will thwart the ultimate connection of schools and libraries to the NII.^{9/}

III. PRESERVING THE PRESUMPTION OF NON-INTERFERENCE INHERENT IN THE NEW RULES IS ESSENTIAL TO ALLOWING PART 15 DEVICES TO SHARE THE 920-928 MHz BAND WITH LMS SYSTEMS.

9. The Coalition opposes those portions of the PFRs filed by Pinpoint Communications, Inc., ("Pinpoint"), Southwestern Bell Mobile Systems, Inc., and Mobilevision that ask the Commission to reconsider the presumption of non-interference contained in new rule section 90.361.^{10/}

10. Under the new rules, Part 15 devices are presumed not to interfere with LMS systems provided the Part 15 devices operate within certain clearly specified guidelines or are used as the final link for specified emergency and medical purposes. This regulatory scheme is the result of a delicate balancing act. It is a carefully constructed compromise designed to facilitate use of

^{9/} Coalition Petition for Reconsideration at p. 14-15.

^{10/} Petition for Reconsideration of Mobilevision at p. 13, Petition for Reconsideration of Southwestern Bell Mobile Systems at p. 9, Petition for Reconsideration of Pinpoint at p. 23.

the band by LMS systems and Part 15 devices. However, to afford LMS operators the opportunity to show that Part 15 devices operating within the given parameters are still interfering with their LMS systems -- i.e. to make the presumed non-interference a rebuttable presumption -- would be tantamount to having no presumption at all. And without this presumption, the fragile balance the Commission has created will no longer exist.

11. Throughout this proceeding, the Part 15 Community and several LMS operators have explained that the large embedded base of Part 15 devices which operates in the band will interfere with the new LMS systems.^{11/} Because LMS systems are so easily interfered with, it is only under a regulatory framework that includes an irrebuttable presumption of non-interference for Part 15 devices that band-sharing can occur at all.

12. Furthermore, Part 15 users should not have to forfeit the ability to use their equipment simply because LMS systems, by their design, are incapable of sharing the 902-928 MHz band. Therefore, the Commission was correct in creating a "safe-harbor" in which Part 15 devices can operate without fear of being asked to either sacrifice their level of operation or shut down.

13. Finally, it is only due to the presumption of non-interference that LMS operators will be motivated to resolve their interference problems with the Part 15 Community. If the Commission were to eliminate the presumption or make it rebuttable,

^{11/} See, e.g., Petition for Reconsideration of the Part 15 Coalition at p. 3; Petition for Reconsideration of Metricom, Inc., at ¶ 5, nn. 3 & 4.

LMS operators would inevitably use this avenue to dominate the band and force Part 15 users to either curtail or cease operations, because such Part 15 devices will interfere with LMS systems.

IV. THE COMMISSION SHOULD NOT ADD A DISTANCE VARIABLE TO THE PRESUMPTION OF NON-INTERFERENCE BECAUSE SUCH A RESTRICTION (1) IS UNENFORCEABLE AND (11) WILL RESULT IN USERS OF PART 15 DEVICES BEING FORCED TO CURTAIL OR CEASE OPERATIONS FOR REASONS BEYOND THEIR CONTROL.

14. The Coalition opposes that portion of Uniplex's PFR which requests that the Commission amend new rule section 90.361 to, in effect, add a distance variable to that rule section and to apply this distance variable to indoor antennas.^{12/}

15. The Commission should reject this suggestion because a distance variable would be impossible to enforce. Most Part 15 devices that are operated indoors are, by definition, portable. They can be, and often are, carried within a building and therefore can constantly be moving farther from and then nearer to a LMS receive antenna. Their movement is generally not planned, and is, thus, unpredictable. The Commission could never enforce such a restriction on indoor users of cordless phones or wireless modems.

16. More specifically, such an addition to new rule section 90.361 would be anathema to schools and libraries. For cost and other reasons, schools and libraries will be particularly dependent on Part 15 technology to connect to the NII. If the Commission were to adopt a distance variable, whether or not a school or

^{12/} Petition for Reconsideration of Uniplex at p. 8.

library, or parts of a school or library, could connect to the NII would be wholly dependent on whether a LMS operator decided to locate an antenna at a site within a certain distance from the school or library. This is a decision that cannot be controlled by the school or library in question or by the children that attend the school or use the library.

17. Furthermore, nothing exists to prevent a LMS operator from placing an antenna within an interference zone of a school or library after that institution has already purchased Part 15 equipment. The possibility that Part 15 equipment may become legally unusable at any time by virtue of its location close to an LMS receiver will deter many schools and libraries from purchasing the necessary Part 15 equipment.

V. THE MEANING OF THE TERM "FINAL LINK" IN SECTION 90.361(c)(2)(ii)(B) OF THE NEW RULES IS CLEAR AND, THEREFORE, PINPOINT WAS OBLIGATED TO SEEK RECONSIDERATION WITHIN THE TIME FRAME SPECIFIED IN 47 C.F.R. § 1.429.

18. The Coalition opposes that portion of Pinpoint's PFR which first asks the Commission to clarify the term "final link" in new rule section 90.361(c)(2)(ii)(B), and then reserves the right to seek reconsideration of the new rule section once "final link" is so clarified.^{13/} This new rule section is sufficiently clear as written, and Pinpoint should have asked for reconsideration within the time provided by Section 1.429.^{14/}

^{13/} Petition for Reconsideration of Pinpoint at p. 23, n. 39.

^{14/} 47 C.F.R. § 1.429.

19. Section 90.361(c)(2)(ii)(B) states that the sliding scale power reduction necessary to maintain the protection of the presumption of non-interference will not be applied to a Part 15 device when such device provides "the final link for communications of entities eligible under Subpart B or C of this Part 90." Part 90 makes plain that Subparts B and C govern the use of the spectrum by Public Safety Radio Services and Special Emergency Radio Services. Therefore, the only Part 15 users that fall under the final link exception to the sliding scale power reduction are the relatively few who serve as the final link to users of the spectrum for specified public safety functions. There is sufficient record evidence that persons or entities that perform such functions use Part 15 devices, and that forcing such persons to comply with the power reduction would damage the performance of valuable public safety functions.^{15/}

20. Therefore, Pinpoint's ostensible concern that new rule section 90.361 may extend the rebuttable presumption to a myriad of other uses of Part 15 devices not supported by the record in this proceeding is unjustified. As noted above, such uses were, in fact, made a part of the record in this proceeding. Also, should this exception actually apply to a myriad of uses, it would subvert the public policy rationale underlying the new section.

^{15/} See, e.g., ex parte letter of Henry Rivera on behalf of Metricom, Inc., filed on December 7, 1994; ex parte letter of Larry Solomon on behalf of Med-E-Systems, filed on December 6, 1994; ex parte letter of ATA, filed on December 7, 1994.

21. The public policy rationale behind the section is clear; to ensure that persons or groups who perform certain specified, essential, public services can communicate effectively with whomever they need to communicate. To extend the benefits of this exception to the myriad of uses feared by Pinpoint would defeat the Commission's goal for public safety and emergency medical services because the mythical large number of users would, by definition, limit the ability of these important users to successfully access the spectrum. This would harm the ability of those users whom the rule is designed to protect.

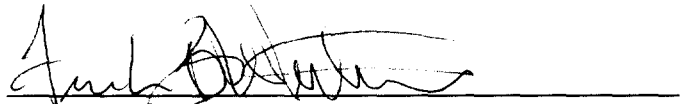
22. Moreover, the Coalition's request^{16/} to expand new rule section 90.361's protections to include communications of schools or libraries within the "final link" is a very limited expansion of the presumption to new uses. This minimal expansion will enhance the capabilities of our schools and libraries to educate our young and is, therefore, good public policy which will not result in an expansion of the "final link" provision to a "myriad of other uses not contemplated in the record in this proceeding,"^{17/} nor will such limited expansion violate the public policy rationale mentioned above.

^{16/} Petition for Reconsideration of the Coalition at pp. 7-11.

^{17/} Indeed, the record includes several entries detailing the importance of utilizing Part 15 technology to connect the nations schools and libraries to the NII. See, ex parte letter of the National Coordinating Council on Technology in Education and Training, filed January 12, 1995; ex parte letter of the International Society for Technology in Education, filed January 12, 1995; ex parte letter of Henry Rivera on behalf of Metricom, Inc., filed December 7, 1994.

Respectfully Submitted,

CONNECTIVITY FOR LEARNING COALITION

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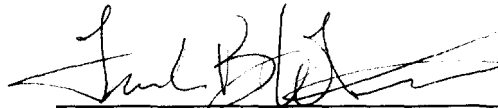
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May 24, 1995

CERTIFICATE OF SERVICE

On May 24, 1995, I caused a copy of the foregoing Opposition to Petition for Reconsideration of the Connectivity for Learning Coalition to be mailed via U.S. mail to those parties listed on the attached page.

A handwritten signature in black ink, appearing to read 'Frank Withrow', written over a horizontal line.

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